

# State of Missouri

## Office of Secretary of State

Case No. AP-09-37

IN THE MATTER OF:

LEGACY FINANCIAL ASSURANCE GROUP, INC.;  
AND J. SCOTT SCHLUETER, CRD # 2263712,

Respondents.

Serve Legacy Financial Assurance Group, Inc. at:  
231 S. Bemiston, Suite 800  
St. Louis, Missouri 63105

Serve J. Scott Schlueter at:  
12 W Windrush Creek  
St. Louis, Missouri 63141-7611

### **ORDER TO CEASE AND DESIST AND ORDER TO SHOW CAUSE WHY CIVIL PENALTIES AND COSTS SHOULD NOT BE IMPOSED**

On September 30, 2009, the Enforcement Section of the Securities Division of the Office of Secretary of State (the "Enforcement Section"), through its Assistant Commissioner, Mary S. Hosmer, submitted an Amended Petition for Order to Cease and Desist and Order to Show Cause Why Civil Penalties and Costs Should Not Be Imposed. After reviewing the amended petition, the Commissioner issues the following findings of fact, conclusions of law and order:

#### **I. Findings of Fact**

1. Legacy Financial Assurance Group, Inc. ("Legacy"), was a Missouri corporation with an address of 231 S. Bemiston, 8th Floor, Clayton, Missouri 63105. Legacy was incorporated on March 8, 1999, to market, sell and develop wealth retention products and services. Legacy was administratively dissolved on November 8, 2007. Legacy was not registered to offer or sell securities in Missouri.
2. James Scott Schlueter ("Schlueter") has an address of 12 W. Windrush Creek, St. Louis, Missouri 63141, and is purported to be the president of Legacy. From April 30, 2003 to September 15, 2005, Schlueter was employed as a registered agent in Missouri with USAllianz Securities, Inc., ("USAllianz") a Missouri-registered broker-dealer. Schlueter was discharged by USAllianz for "failure to pay debit balance" on September 15, 2005. From November 23, 2005 through May 26, 2006, Schlueter was registered with a Missouri-registered broker-dealer, J.W. Cole Financial, Inc., as a securities agent. Schlueter was registered in Missouri through the Central Registration Depository System ("CRD"). Schlueter has a CRD number of 2263712. Schlueter has not been registered as a securities agent in Missouri since May 26,

2006.

3. As used herein, the term “Respondents” refers to Legacy and Schlueter.
4. From at least July 2006 through July 2007, Schlueter and Legacy offered and sold investments in a program referred to as the 7.6 or 7/6 Legacy Money Fund (the “Legacy Money Fund”) from the State of Missouri. Legacy and Schlueter stated that they would pay rates of return in the Legacy Money Fund of up to seven and six-tenths percent (7.6%) interest on the principal every forty-five (45) days. Three Illinois residents invested a total of three hundred twenty-three thousand, five hundred ninety-nine dollars (\$323,599) in the Legacy Money Fund. These investors were not told about any possible risks associated with their investments and were assured their investments were safe.
5. On or before December 22, 2006, Schlueter met with a thirty-three (33) year-old Illinois resident (“IR1”) at IR1’s office in Shrewsbury, Missouri, regarding investing with Schlueter. Schlueter told IR1, among other things, that:
  - a. IR1’s money would be invested in the Legacy Money Fund;
  - b. the investment was guaranteed against loss;
  - c. IR1 could get her money out if she needed it; and
  - d. IR1 was to receive interest totaling seven hundred fifty dollars (\$750) every sixty (60) days on a forty thousand dollar investment [or eleven and one quarter percent (11.25%) per annum].
6. On or about December 22, 2006, IR1 invested forty thousand dollars (\$40,000) with Schlueter and Legacy. Schlueter went to IR1’s office in Shrewsbury, Missouri, to pick up IR1’s forty thousand dollar (\$40,000) check that was made payable to Legacy.
7. Schlueter deposited thirty-nine thousand dollars (\$39,000) of IR1’s investment funds in the Legacy Financial Assurance Group account at National City Bank in Ladue, Missouri (the “Legacy Bank Account”). The remaining one thousand dollars (\$1,000) was taken in cash by Schlueter. Schlueter was the sole authorized signatory on the Legacy Bank Account.
8. After IR1’s funds were deposited into the Legacy Bank Account, Schlueter wrote checks to, among other things, the following:
  - a. Kim Schlueter;
  - b. Silver Strings Music, Inc.;
  - c. Imo’s Pizza;
  - d. University Club;
  - e. Hosting Soho;

- f. Ritz Carlton;
  - g. Hufford's Jewelry; and
  - h. Wine Merchant.
9. Schlueter used a debit card from the Legacy Bank account to, among other things, pay for expenditures at:
- a. Walgreen's;
  - b. Schnucks;
  - c. Applegate's Deli;
  - d. Borders Books;
  - e. Candicci's Italian Grill;
  - f. TGI Friday's;
  - g. Waterway 8;
  - h. Ladu Nails;
  - i. Great American #9;
  - j. McDonalds;
  - k. J.C. Penney's;
  - l. Dakota Watch Company;
  - m. McArthur's Party Cake Bake;
  - n. Waldenbooks;
  - o. Nordstrom;
  - p. Cardwell's at the Plaza; and
  - q. Fazzio's Frets and Friends.
10. IR1 received interest payments every sixty days in the amount of seven hundred and fifty dollars (\$750) from Schlueter and Legacy from January 2007 through June 2008.
11. In July 2008, Schlueter stopped making interest payments to IR1.
12. In October 2008, IR1 attempted to contact Schlueter and Legacy about the missing interest payments. IR1, among other things, tried:
- a. to call Schlueter and got a recording;

- b. to call Schlueter on a cell phone number given to IR1 but was informed that it was no longer Schlueter's number; and
  - c. to go to Schlueter's house and a neighbor told IR1 that Schlueter's house was for sale.
13. Since June 2008, IR1 has not received any interest payments or a return of her principal from Schlueter.
14. In 1998, a seventy-one (71) year-old Illinois resident and a sixty-six (66) year-old Illinois resident, husband and wife ("IR2" and "IR3," respectively) were introduced to Schlueter by a mutual acquaintance.
15. In 1998, Schlueter put IR2's and IR3's money into various annuities. IR2 and IR3 still have these annuities.
16. In late 2005, Schlueter began urging IR2 and IR3 to put money into the Legacy Money Fund.
17. In late 2005, Schlueter told IR2 and IR3, among other things, that:
  - a. under the Legacy Money Fund they would receive seven and six-tenths percent (7.6%) interest on their principal every forty-five (45) days;[\[1\]](#)
  - b. Legacy was only accepting investments in increments of one hundred thousand dollars (\$100,000);
  - c. Schlueter would let IR2 and IR3 get started with an initial investment of ten thousand dollars (\$10,000) if IR2 and IR3 would commit additional funds totaling \$100,000 within a year;
  - d. their money would never be at risk;
  - e. they would never lose their principal; and
  - f. they could get their money out of the Legacy Money Fund in forty-five (45) days from the date they made a request for the funds.
18. From June 2006 through August 1, 2007, IR2 and IR3 invested a total of two hundred eighty-three thousand five hundred ninety-nine dollars and eighty-three cents (\$283,599.83) in the Legacy Money Fund through Legacy and Schlueter by sending checks and wires to Schlueter in Missouri.
19. After the last investment in July 2007, Schlueter told IR2 and IR3, among other things that:
  - a. he had moved a portion of their money to a "one hundred thousand dollar [\$100,000] one-year annuity" ("One-Year Annuity"); and
  - b. IR2 and IR3 would receive ten percent (10%) interest on their principal every month on this annuity.[\[2\]](#)

20. In August 2007, IR2 and IR3 received the first payment on the One-Year Annuity from Schlueter in the amount of nine thousand three hundred fifty-one dollars and forty-two cents (\$9,351.42).
21. In or after August 2007, IR2 and IR3 told Schlueter that they wanted the monthly payment from the One-Year Annuity to be reinvested in the Legacy Money Fund.
22. On September 26, 2007, Schlueter began sending statements to IR2 and IR3 to evidence that money from the One-Year Annuity was going back into the Legacy Money Fund.
23. From September 2007 through June 6, 2008, IR2 and IR3 received statements from Schlueter and Legacy. These statements were on letterhead that stated, among other things, "Legacy Financial Assurance Group, Inc." and provided an address for Legacy at 231 S. Bemiston Ave. Suite 800 in St. Louis, Missouri. In addition, some of these statements claimed that Schlueter was a "Registered Representative" and that the securities were "offered through USAllianz Securities Member NASD, SIPC, MSRB, Registered Investment Advisor 5701 Golden Hills Drive, Minneapolis, MN 55416-1297-888-446-5872."
24. The first statement, dated September 26, 2007, indicated that IR2 and IR3 had one hundred ninety-three thousand two hundred ninety-eight dollars and fifty-one cents (\$193,298.51) in the Legacy Money Fund, and that it now paid interest every sixty (60) days.
25. The June 6, 2008, statement indicated that IR2 and IR3 had a total balance of two hundred twenty thousand four hundred sixty-six dollars and thirty-nine cents (\$220,466.39) in the Legacy Money Fund.
26. These statements did not reflect the entire amount of IR2's and IR3's funds in the One-Year Annuity.
27. Sometime after August 2007, IR2 and his son went to Schlueter's house in Missouri and asked Schlueter where IR2's and IR3's money was located. Schlueter stated, among other things, that he could not tell them. Schlueter did not tell IR2 and IR3 what happened to the remaining sixty-three thousand one hundred thirty-three dollars and forty-four cents (\$63,133.44) of their principal.
28. Sometime after August 2007, IR2 and IR3 made numerous telephone calls to Schlueter regarding their investment. IR2 and IR3 were not able to talk with Schlueter.
29. Schlueter deposited IR2's and IR3's money into the Legacy Bank Account and used it to pay, among other things, the following:
  - a. University Club;
  - b. Blue Cross/Blue Shield;
  - c. Chubb & Son;
  - d. American Express;

- e. American Cleaners;
  - f. Schnuck's;
  - g. Trader Joe's;
  - h. Ritz Carlton;
  - i. Border's Books;
  - j. Facial Surgery Institute;
  - k. Wind Rush Creek Assn;
  - l. McMurry Music;
  - m. Hufford's Jewelry;
  - n. Obermiller Construction;
  - o. Old Hickory Golf Club;
  - p. Party City;
  - q. Build A Bear Workshop;
  - r. Z&Z Package & Liquor Store;
  - s. Allstate Insurance Company;
  - t. Allied Behavioral Consulting;
  - u. Wine Merchant Ltd;
  - v. Tiffany & Co.; and
  - w. Numerous restaurants.
30. During its investigation, the Enforcement Section found, in addition to the above payments, that Schlueter made the following disbursements from the Legacy Bank Account:
- a. more than seventy-five thousand dollars (\$75,000) was paid toward Schlueter's mortgage with First Franklin;
  - b. more than eighteen thousand dollars (\$18,000) was paid toward Schlueter's mortgage with Enterprise Bank;
  - c. twenty-six thousand seven hundred fifty dollars (\$26,750) was paid to Schlueter's wife Kim Schlueter; and
  - d. thirty-two thousand two hundred forty-five dollars (\$32,245) was paid to cash.

31. A check of the records maintained by the Missouri Commissioner of Securities confirmed that:
- a. there was no registration or notice filing indicating status as a “federal covered security” for the Legacy Money Fund as offered and sold by Respondents;
  - b. Schlueter was not a registered securities agent in Missouri at the time of the investments;
  - c. the securities were not offered through USAllianz; and
  - d. Legacy was not registered as a broker-dealer in Missouri.
32. Schlueter did not tell the above investors, among other things, the following:
- a. that the securities were not registered;
  - b. that Schlueter was not registered to offer or sell securities in Missouri;
  - c. that Legacy was not registered as a broker-dealer;
  - d. how investors’ money would be used to generate income;
  - e. possible risks associated with the investment; and
  - f. background information for the managers, directors, officers or other persons having similar status or performing similar functions, including but not limited to, their:
    - i. principal occupations for the previous five years;
    - ii. remuneration received during the previous twelve months and estimated to be received during the next twelve months;
    - iii. material contracts or relationships with third parties; or
    - iv. performance on prior investments.
33. Schlueter made the following untrue statements:
- a. that IR1 would receive seven hundred fifty dollars (\$750) every sixty (60) days;
  - b. that IR1’s investment was guaranteed against loss;
  - c. that IR1 could get her money out at any time;
  - d. that IR2’s and IR3’s money had been placed in a One-Year Annuity;
  - e. that IR2 and IR3 would earn seven and six-tenths percent (7.6%) interest every forty-five (45) days on the funds invested in the Legacy Money Fund;
  - f. that IR2 and IR3’s money would never be at risk;

- g. in documents provided to IR2 and IR3, Schlueter stated that he was a registered representative; or
- h. in documents provided to IR2 and IR3 Schlueter stated that funds were invested through USAAllianz.

## II. STATUTORY PROVISIONS

34. Section 409.6-601(a), RSMo. (Cum. Supp. 2008), provides that the Missouri Securities Act of 2003 “shall be administered by the commissioner of securities . . . .”

35. Section 409.1-102(1), RSMo. (Cum. Supp. 2008), defines “Agent” as:

an individual, other than a broker-dealer, who represents a broker-dealer in effecting or attempting to effect purchases or sales of securities or represents an issuer in effecting or attempting to effect purchases or sales of the issuer’s securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual having a similar status or performing similar functions is an agent only if the individual otherwise comes within the term. The term does not include an individual excluded by rule adopted or order issued under this act.

36. Section 409.1-102(26), RSMo. (Cum. Supp. 2008), defines “Sale” to include: “every contract of sale, contract to sell, or disposition of, a security or interest in a security for value.” That same section defines “offer to sell” as “every attempt to offer to dispose of, or solicitation of an offer to purchase, a security or interest in a security for value.”

37. Section 409.1-102(28), RSMo. (Cum. Supp. 2008), defines “security” to mean a:

note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest of participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or in general, an interest or instrument commonly known as a “security”; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

38. Section 409.3-301, RSMo. (Cum. Supp. 2008), states:

It is unlawful for a person to offer or sell a security in this state unless:

- (1) The security is a federal covered security;
- (2) The security, transaction, or offer is exempted from

registration under sections 409.2-201 to 409.2-203; or

(3) The security is registered under this act.

39. Section 409.4-402(a), RSMo. (Cum. Supp. 2008), states:

It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this act as an agent or is exempt from registration as an agent under subsection (b).

40. Section 409.4-402(d), RSMo. (Cum. Supp. 2008), states:

It is unlawful for a broker-dealer, or an issuer engaged in offering, selling, or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered under subsection (a) or exempt from registration under subsection (b).

41. Section 409.5-501, RSMo. (Cum. Supp. 2008), states:

It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly:

(1) To employ a device, scheme, or artifice to defraud;

(2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading; or

(3) To engage in an act, practice, course of business that operates or would operate as a fraud or deceit upon another person.

42. Section 409.6-604(a), RSMo. (Cum. Supp. 2008), states:

If the commissioner determines that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this act or a rule adopted or order issued under this act or that a person has materially aided . . . an act, practice or course of business constituting a violation of this act . . . the commissioner may:

(1) Issue an order directing person to cease and desist from engaging in the act, practice, or course of business or to take other action necessary and to comply with this act;

(2) Issue an order denying, suspending, revoking, or conditioning the exemptions for a broker-dealer under section 409.4-401(b)(1)(D) or (F) or an investment adviser under section 409.4-403(b)(1)(C); or

(3) Issue an order under 409.2-204.

43. Section 409.6-604(d), RSMo. (Cum. Supp. 2008), states:

In a final order . . . the commissioner may impose a civil penalty up to one thousand dollars (\$1,000) for a single violation or up to ten thousand dollars (\$10,000) for more than one violation.

44. Section 409.6-604(e), RSMo. (Cum. Supp. 2008), states:

In a final order, the commissioner may charge the actual cost of an investigation or proceeding for a violation of this act or a rule adopted or order issued under this act. These funds may be paid into the investor education and protection fund.

### **III. CONCLUSIONS OF LAW**

#### **Multiple Violations of Offering and Selling Unregistered, Non-Exempt Securities**

45. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
46. Respondents offered and sold a security as those terms are defined in Sections 409.1-102(26) and (28), RSMo. (Cum. Supp. 2008).
47. At all times relevant, records maintained by the Commissioner of Securities contained no registration, granted exemption or notice filing indicating status as a “federal covered security” for the investments offered and sold by Respondents.
48. Respondents violated Section 409.3-301, RSMo. (Cum. Supp. 2008), when they offered and sold securities in Missouri without these securities being: (1) a federal offered security; (2) exempt from registration under Sections 409.2-201 or 409.2-202, RSMo. (Cum. Supp. 2008); or (3) registered under the Missouri Securities Act of 2003.
49. Respondents’ actions in offering or selling securities that were not registered, exempt or a federal covered security constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner’s authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).

#### **Multiple Violations of Transacting Business as an Unregistered Agent**

50. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
51. At all times relevant, records maintained by the Missouri Commissioner of Securities contained no registration or granted exemption for Schlueter to transact business as a broker-dealer agent in the State of Missouri.
52. Schlueter violated Section 409.4-402(a), RSMo. (Cum. Supp. 2008), when he offered

or sold securities from Missouri to investors in Illinois without being registered as an agent in Missouri.

53. Respondent Schlueter's actions in transacting business as an unregistered agent constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).

### **Multiple Violations of Employing an Unregistered Agent**

54. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
55. Legacy employed Schlueter who transacted business on behalf of Legacy. These activities constitute transacting business in the State of Missouri.
56. Legacy has not registered any agents in the State of Missouri.
57. Legacy violated Section 409.4-402(d), RSMo. (Cum. Supp. 2008), when they employed an unregistered agent who transacted business in the State of Missouri.
58. Respondent Legacy's actions of employing an unregistered agent constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).

### **Multiple Violations of Making an Untrue Statement or Omitting to State Material Facts in Connection with the Offer or Sale of a Security**

59. Paragraphs 1 through 44 are incorporated by reference as though fully set forth herein.
60. In connection with the offer, sale or purchase of a security, Schlueter omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, including, but not limited to, the following:
- a. In connection with the offer and/or sell of these securities in Missouri, Schlueter *omitted* to disclose:
    - i. that the securities offered or sold were not registered;
    - ii. that Schlueter was not registered to offer or sell securities in or from the State of Missouri;
    - iii. that Legacy was not registered as a broker-dealer in Missouri;
    - iv. how investors' money would be used to generate income;
    - v. risks of the investments;

- vi. background information for plan managers, directors, officers or other persons having similar status or performing similar functions, including but not limited to, their:
    - 1. Principal occupations for the previous five years; or
    - 2. Remuneration received during the previous twelve months and estimated to be received during the next twelve months;
  - vii. material contracts or relationships with third parties; or
  - viii. performance on prior investments.
- b. In connection with the offer and/or sale of securities in Missouri, Schlueter made the following untrue statements:
- i. that IR1 would receive seven hundred fifty dollars (\$750.00) every sixty (60) days;
  - ii. that IR1's investment was guaranteed against loss;
  - iii. that IR1 could get her money out at any time;
  - iv. that a portion of IR2's and IR3's money had been placed in a one-year annuity;
  - v. that IR2 and IR3 would earn seven and six tenths percent (7.6%) interest every forty-five days on funds invested in the Legacy Money Fund;
  - vi. that IR2's and IR3's money would never be at risk;
  - vii. in documents provided to IR2 and IR3 Schlueter stated that he was a registered representative; or
  - viii. in documents provided to IR2 and IR3 Schlueter stated that funds were invested through USAllianz.
  - ix. Respondent Schlueter violated Section 409.5-501(2), RSMo. (Cum. Supp. 2008), when he made untrue statements of material fact, or when he omitted to state material facts necessary to make statements made not misleading, in connection with the offer, sale or purchase of a security.
61. Respondent Schlueter's actions in making untrue statements of material fact or omitting to state material facts constitute an illegal act, practice, or course of business and thus such actions are subject to the commissioner's authority under Section 409.6-604(a), RSMo. (Cum. Supp. 2008).
62. This order is in the public interest and consistent with the purposes intended by the Missouri Securities Act of 2003. See Section 409.6-605(b), RSMo. (Cum. Supp. 2008).

## **IV. Order**

**NOW THEREFORE**, it is hereby ordered that Respondents, their agents, employees and servants, and all other persons participating in or about to participate in the above-described violations with knowledge of this Order are prohibited from:

- A. violating or materially aiding in any violation of Section 409.3-301, RSMo. (Cum. Supp. 2008) by offering or selling any securities as defined by Section 409.1-102(28), RSMo. (Cum. Supp. 2008), in the State of Missouri unless those securities are registered with the Securities Division of the Office of the Secretary of State in accordance with the provisions of Section 409.3-301;
- B. violating or materially aiding in any violation of Section 409.4-402, RSMo. (Cum. Supp. 2008), by transacting business as an unregistered agent;
- C. violating or materially aiding in any violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2008), by employing an unregistered agent; and
- D. violating or materially aiding in any violation of Section 409.5-501, RSMo. (Cum. Supp. 2008), by, in connection with the offer or sale of securities, making an untrue statement of a material fact or omitting to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading or engaging in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of a civil penalty of up to ten thousand dollars (\$10,000) against each Respondent for multiple violations of Section 409.3-301, RSMo. (Cum. Supp. 2008), in a final order, unless Respondents request a hearing and show cause why the penalty should not be imposed.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of civil penalties of up to ten thousand dollars (\$10,000) against Respondent Schlueter for multiple violations of Section 409.4-402(a), RSMo. (Cum. Supp. 2008), in a final order, unless Respondent Schlueter requests a hearing and shows cause why the penalty should not be imposed.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of civil penalties of up to ten thousand dollars (\$10,000) against Respondent Legacy for multiple violations of Section 409.4-402(d), RSMo. (Cum. Supp. 2008), in a final order, unless Respondent Legacy requests a hearing and shows cause why the penalty should not be imposed.

**IT IS FURTHER ORDERED** that, pursuant to Section 409.6-604(d), RSMo. (Cum. Supp. 2008), the Commissioner will determine whether to grant the Enforcement Section's petition for an imposition of civil penalties of up to ten thousand dollars (\$10,000) against Respondent Schlueter for multiple violations of Section 409.5-501(2), RSMo. (Cum. Supp. 2008), in a final order, unless Respondent Schlueter requests a hearing and shows cause

why the penalty should not be imposed.

**IT IS FURTHER ORDERED** that, as the Enforcement Section has petitioned for an award for the costs of the investigation against Respondents in these proceedings, the commissioner will issue a final order, pursuant to Section 409.6-604(e), RSMo. (Cum. Supp. 2008), awarding an amount to be determined after review of evidence submitted by the Enforcement Section, unless Respondents request a hearing and show cause why such an award should not be made.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY,  
MISSOURI THIS 13<sup>TH</sup> DAY OF OCTOBER, 2009.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES



State of Missouri  
Office of Secretary of State

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*Respondents.*

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St. Louis, Missouri 63105

Serve J. Scott Schlueter at:  
12 W Windrush Creek  
St. Louis, Missouri 63141-7611

## NOTICE

### **TO: Respondents and any unnamed representatives aggrieved by this Order:**

You may request a hearing in this matter within thirty (30) days of the receipt of this Order pursuant to Section 409.6-604(b), RSMo. (Cum. Supp. 2008), and 15 CSR 30-55.020.

Within fifteen (15) days after receipt of a request in a record from a person or persons subject to this order, the Commissioner will schedule this matter for a hearing.

A request for a hearing must be mailed or delivered, in writing, to:

**Matthew Kitzi, Commissioner of Securities**  
**Office of the Secretary of State, Missouri**  
**Kirkpatrick State Information Center**  
**600 West Main Street, Room 229**  
**Jefferson City, Missouri, 65102.**

## CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of October, 2009, copies of the foregoing Order and Notice in the above styled case was **mailed by certified U.S. Mail, postage prepaid, to:**

Legacy Financial Assurance Group, Inc.  
231 S. Bemiston, Suite 800  
St. Louis, Missouri 63105

J. Scott Schlueter  
12 W Windrush Creek  
St. Louis, Missouri 63141-7611

### **And hand delivered to:**

Mary S. Hosmer  
Assistant Commissioner  
Securities Division

[1] The documents Schlueter supplied IR2 and IR3 regarding the interest rate were unclear. These documents stated that the interest was “7.6 % @ 45 day payout factor.” It is unclear from the documents if it would pay interest of 7.6% every 45 days or would pay 7.6 % per annum, payable every forty-five days. John Hale Specialist

[2] The documents Schlueter supplied to IR2 and IR3 stated that the “Interest Rate Factor” was “10%-12 month, full annuity payout.” Statements that Schlueter sent to IR2 and IR3 were unclear whether the interest was a monthly rate of return or was an annual rate of return that was payable monthly.